

Exhibit 1

HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD and ANNE ERICKSON, individually and
the marital community comprised thereof,

Plaintiffs,

v.

MICROAIRE SURGICAL INSTRUMENTS,
LLC, a Virginia Limited Liability Company doing
business in the State of Washington,

Defendant.

NO. C08-5745-FDB

DEFENDANT'S FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS AND
INTERROGATORIES TO PLAINTIFF ANNE
ERICKSON

To: ANNE ERICKSON

And To: Tony Shapiro and Martin McLean, her attorneys of record

In accordance with Federal Rules of Civil Procedure 26, 33 and 34, you will please answer the following interrogatories and produce for inspection and copying by defendant, the following designated documents and things in the offices of the attorneys for Ogden Murphy Wallace, 1601 Fifth Avenue, Suite 2100, Seattle, Washington 98101-1686, within thirty (30) days of the date these interrogatories and requests for production are served upon you.

THESE INTERROGATORIES AND REQUESTS FOR PRODUCTION ARE TO BE TREATED AS CONTINUING. If information is not available within the time limits of the

{JDA771474.DOC;1112459.000005}

DEFENDANT'S FIRST SET OF DISCOVERY TO ANNE
ERICKSON - 1

OGDEN MURPHY WALLACE, P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, Washington 98101-1686
Tel: 206.447.7000/Fax: 206.447.0215

1 Federal Rules of Civil Procedure, you must answer each interrogatory and request for production
 2 as fully as possible within the time limit and furnish additional information when it becomes
 3 avail-able. If additional information is discovered between the time of making these answers and
 4 the time of trial, these interrogatories and requests for production are directed to that information.
 5 If such information is not furnished, the undersigned will move at the time of trial to exclude
 6 from evidence any information requested and not furnished.
 7

8 DEFINITIONS

9 "Document" or "Documents" includes, but is not limited to, writings of every kind,
 10 source, and authorship, both originals and non-identical copies thereof, as well as all drafts or
 11 summaries, in whole or in part, in Your possession, custody, or control. A writing includes but is
 12 not limited to letters, words, numbers, data compilations (including field data or field notes),
 13 calculations, pictures, drawings, photographs, symbols, sounds, or combinations thereof or their
 14 equivalent, including any and all handwritten, typewritten, printed, photocopied, or recorded
 15 matter, regardless of the media used, and specifically any and all correspondence, e-mails,
 16 Electronic Media, Electronically Stored Information, transcripts of testimonies, letters,
 17 memoranda, notes, reports, papers, files, books, records, contracts, agreements, telegrams,
 18 teletypes and other communications sent or received, diaries, calendars, telephone logs, drafts,
 19 work papers, agenda, bulletins, notices, announcements, instructions, charts, maps, plans,
 20 photographs, microfilm, data processed or image processed document, information stored or
 21 maintained electronically or by sound-recording or in a similar device, manuals, brochures,
 22 schedules, summaries, notes, minutes and other records and recordings of any conferences,
 23 meetings, visits, statements, interviews, or telephone conversations, bills, statements, and other
 24
 25
 26

1 records of obligations and expenditures, cancelled checks, vouchers, receipts, and other records
2 of payments, financial data, analysis, statements, interviews, affidavits, printed matter (including
3 books, articles, speeches, newspaper clippings), press releases, file memoranda or other internal
4 documents, and photographs, and all drafts and/or non-identical copies thereof.

5
6 “Electronically Stored Information” includes but is not limited to writings, drawings,
7 graphs, charts, photographs, sound recordings, images and other data or data compilations stored
8 in any medium from which information can be obtained either directly or, if necessary, after
9 translation by the responding party into a reasonably usable form.

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12 stored information, e-mail, databases, data, word processing files, backup tapes, files, disks, hard
13 drives and any other electronically stored information, in its native format, including all
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16 “Communication” or “Communications” includes, but is not limited to, all verbal,
17 written, magnetic, digital, analog, electronic, and oral voice or data communications, transfers,
18 discussions , capture or exchanges of information or ideas, including those comprised of or
19 contained in conversations, conferences, meetings, seminars, presentations, correspondence,
20 documents, brochures, pamphlets, records, facsimiles, telecopies, voice mail, electronic mail,
21 Electronic Media, computer, cellular or digital media, photo-optic or analog media, magnetic
22 media, telex transmissions and/or communications conveyed by an electronic device.

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24 “Concerning” or “Concerns” includes, but is not limited to, the following meanings:
25 relating to, referring to, pertaining to, regarding, constituting, discussing, mentioning, containing,
26 reflecting, evidencing, referencing, involving, arising out of, in connection with, describing,

1 displaying, showing, and identifying.

2 "Health Care Providers" shall refer to any doctors, nurses, psychiatrists, psychologists,
3 counselors, osteopaths, chiropractors, mental health professionals, and any other person provided
4 medical treatment or advice.
5

6 "Identify" or "Identity" when used in reference to an individual person means to state his
7 full name and present address, his present or last-known position and business affiliation, and his
8 position and affiliation at the time in question. "Identify" or "identity," when used in reference to
9 a document, means to state the date and author, type of document (e.g., letter, memorandum,
10 telegram, chart, etc.) or some other means of identifying it, and its present location or custodian.
11 If any such document was in your possession, but is no longer in your possession or subject to
12 your control, explain the disposition of the document.
13

14 "SOMS" means Sound Oral & Maxillofacial Surgery, P.S. and all derivations and
15 abbreviations of Sound Oral & Maxillofacial Surgery, including but not limited to, "Sound Oral,"
16 "Dr. Robert Todd Erickson, DDS," "Sound Oral Surgery," "SOMS," "Dr. Robert Erickson,"
17 "SOMS Inc., P.S.," and "Sound Oral Maxillofacial."
18

19 "You" or "Your" shall mean Plaintiffs Todd and Anne Erickson, and SOMS, and each
20 predecessor, successor, Affiliate, director, owner, member, manager, officer, attorney, agent,
21 employee or representative of SOMS, and any other Person acting on SOMS' behalf or under its
22 control.
23

24 NOTE: The information sought in these interrogatories and requests for production is
25 intended to include any and all information and witnesses known to plaintiff, his agents or
26 attorneys.

1 REQUEST FOR PRODUCTION NO. 1: Please produce all documents showing or concerning
2 any and all marketing plans, business plans, production quotas, and/or production goals, for
3 SOMS from January 1, 1997 through the date that SOMS was sold.

4 RESPONSE:
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6
7

8 REQUEST FOR PRODUCTION NO. 2: Please produce all documents concerning any and all
9 evaluations, reviews, or performance appraisals of any SOMS employees, from January 1, 1997
10 through the date that SOMS was sold.

11 RESPONSE:
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15 REQUEST FOR PRODUCTION NO. 3: Please produce all documents concerning any
16 collections made by SOMS, and production numbers, from January 1, 1997 through the date that
17 SOMS was sold.

18 RESPONSE:
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21

22 REQUEST FOR PRODUCTION NO. 4: Please produce all documents showing the number of
23 hours per day patients were seen at SOMS, including but not limited to any schedules, diaries,
24 and/or calendars, from January 1, 1997 through the date that SOMS was sold.

25 RESPONSE:
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3 REQUEST FOR PRODUCTION NO. 5: Please produce all employee resumes and records
4 showing the dates of employment for each employee, from January 1, 1997 through the date that
5 SOMS was sold.

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7 RESPONSE:
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10 REQUEST FOR PRODUCTION NO. 6: Please produce any documents containing any lists of
11 all employees of SOMS from January 1, 1997 through the date that SOMS was sold.

12
13 RESPONSE:
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16 INTERROGATORY NO. 1: Are you making a claim for loss of consortium? If so, please state
17 the total amount you are claiming, the method by which this amount was computed or
18 determined, and a full description of the basis for your claim.

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20 ANSWER:
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23 REQUEST FOR PRODUCTION NO. 7: Please produce copies of all records concerning or
24 supporting your answer to the preceding interrogatory.

25
26 RESPONSE:

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3 REQUEST FOR PRODUCTION NO. 8: Produce all drills used in your spouse's oral surgical
4 practice in your possession, custody, or control. This includes, but is not limited to, the eleven
5 (11) pneumatic drills referenced in Dr. Erickson's deposition.
6

7 RESPONSE:
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10 REQUEST FOR PRODUCTION NO. 9: Produce all documents concerning the Levin Group,
11 Inc., or Barry Levin, including but not limited to all files, contracts, meeting plans, notes,
12 recommendations, analyses, suggestions, critiques, and documents referencing Jennifer Flint,
13 Jennifer Alexander, and Mark Cardwell.
14

15 RESPONSE:
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18 REQUEST FOR PRODUCTION NO. 10: Produce all documents concerning the lawsuit
19 captioned *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).
20

21 RESPONSE:
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24 REQUEST FOR PRODUCTION NO. 11: Produce all pleadings, deposition transcripts with
25 exhibits, audio and/or videotapes of depositions, witness statements, expert reports,
26

1 correspondence, and settlement agreements concerning the case captioned *Forshey v. SOMS, Inc.*
2 *et. al.* (W.D. Wash. Case No. C06-5335-RJB). This request specifically excludes any materials
3 subject to the attorney-client privilege and/or work product doctrine.

4 RESPONSE:
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8 REQUEST FOR PRODUCTION NO. 12: Produce all employment contracts regarding Jennifer
9 Forshey.

10 RESPONSE:
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14 REQUEST FOR PRODUCTION NO. 13: Produce the notebook referenced on page 142 of Dr.
15 Erickson's deposition.

16 RESPONSE:
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20 REQUEST FOR PRODUCTION NO. 14: Produce all documents relevant to your spouse's
21 interactions with the Dental Quality Assurance Commission, including, but not limited to,
22 complaints, charges, responses, stipulations, correspondence, or any other filings.

23 RESPONSE:
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1 REQUEST FOR PRODUCTION NO. 15: Produce all documents concerning any disability
2 insurance in you or your spouse's name, including but not limited to the application, policy,
3 claims, and correspondence.

4 RESPONSE:
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8 REQUEST FOR PRODUCTION NO. 16: Produce all documents concerning any and all golf
9 academies, institutions, and/or schools in which your son is/was enrolled, including but not
10 limited to all correspondence, brochures, registrations, bills, receipts, cancelled checks, and
11 programs.

12 RESPONSE:
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16 INTERROGATORY NO. 2: Identify all accountants and/or any other financial professionals
17 hired and/or used by you, your spouse, or SOMS from January 1, 1997 through the present.

18 ANSWER:
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22 REQUEST FOR PRODUCTION NO. 17: Produce all credit card statements, investments, bank
23 statements, check registers, data from any accounting software, and cancelled checks, concerning
24 SOMS.

25 RESPONSE:
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2
3 REQUEST FOR PRODUCTION NO. 18: Produce all credit card statements, investments, bank
4 statements, check registers, data from any accounting software, and cancelled checks, concerning
5 you and/or your spouse.
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7 RESPONSE:
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10 REQUEST FOR PRODUCTION NO. 19: Produce all documents concerning you and your
11 spouse's liabilities, assets, and investments.
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13 RESPONSE:
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16 REQUEST FOR PRODUCTION NO. 20: Produce all billing records for SOMS.
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18 RESPONSE:
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21 REQUEST FOR PRODUCTION NO. 21: Produce all documents concerning insurance for
22 SOMS, including but not limited to any policies, applications, endorsements, claims, and
23 correspondence.
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25 RESPONSE:
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2 REQUEST FOR PRODUCTION NO. 22: Produce SOMS's document retention policy.

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4 RESPONSE:

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7 REQUEST FOR PRODUCTION NO. 23: Produce all OSHA/WISHA manuals, records, training
8 materials, and brochures your/your spouse's practice at SOMS.

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10 RESPONSE:

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13 REQUEST FOR PRODUCTION NO. 24: Produce all documents concerning Harris Biomedical.

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15 RESPONSE:

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18 INTERROGATORY NO. 3: Please list each school or educational institution that you have
19 attended, including the dates of attendance, date of graduation, degree obtained, and major or
20 course of study.

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22 ANSWER:

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25 INTERROGATORY NO. 4: List the names and addresses of all health care providers, including
26 but not limited to all doctors, nurses, psychiatrists, psychologists, counselors, osteopaths,

1 chiropractors, mental health professionals, and any other person who provided health care to you
2 or your spouse since your hearing loss first began.

3 ANSWER:
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7 REQUEST FOR PRODUCTION NO. 25: Produce all documents concerning the preceding
8 interrogatory, including but not limited to all medical and billing records.

9 RESPONSE:
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13 INTERROGATORY NO. 5: Please list the names and addresses of all mental health care
14 providers, including but not limited to psychologists, psychiatrists, counselors, social workers,
15 and therapists, that you and/or your spouse saw prior to your spouse's hearing loss beginning.

16 ANSWER:
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20 REQUEST FOR PRODUCTION NO. 26: Produce all documents concerning the preceding
21 interrogatory, including but not limited to all records and billing records.

22 RESPONSE:
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1 REQUEST FOR PRODUCTION NO. 27: Produce all textbooks, journals, articles, and surveys
2 concerning Oral & Maxillofacial surgery that you, your spouse, or SOMS received from 1985
3 through the present, including but not limited to, the Journal of Oral & Maxillofacial Surgery,
4 Journal of the American Dental Association, and Compendium.

5 RESPONSE:
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9 REQUEST FOR PRODUCTION NO. 28: Produce all documents concerning Don Dixon and/or
10 Dixon Orthopedics.

11 RESPONSE:
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14 REQUEST FOR PRODUCTION NO. 29: Produce all documents concerning the pre-cordial
15 stethoscope(s) used during your spouse's practice, including, but not limited to, instruction
16 manuals, brochures, and invoices.

17 RESPONSE:
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21 REQUEST FOR PRODUCTION NO. 30: Produce all pre-cordial stethoscopes used in your
22 spouse's practice from 1997 through the date you sold SOMS.

23 RESPONSE:
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2 REQUEST FOR PRODUCTION NO. 31: Produce all documents concerning the noise output
3 through the pre-cordial stethoscope during operation of the drills.

4 RESPONSE:
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9 REQUEST FOR PRODUCTION NO. 32: Produce all documents concerning any consultations
10 with practice or business consultants, including but not limited to Dick Jackson.
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12 RESPONSE:
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16 REQUEST FOR PRODUCTION NO. 33: Produce all documents concerning any lawsuits
17 against or brought by John Godulas.

18 RESPONSE:
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22 REQUEST FOR PRODUCTION NO. 34: Produce all documents concerning any lawsuits
23 against or brought by Mark Paxton
24

25 RESPONSE:
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1 REQUEST FOR PRODUCTION NO. 35: Produce all documents concerning dosimetry studies
2 prepared at the request of you, your spouse, or SOMS.

3 RESPONSE:
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7 INTERROGATORY NO. 6: Identify everywhere that you and/or your spouse have traveled by
8 airplane from January 1, 2000 to the present, including the location to which you traveled, the
9 name of the hotel or place where you stayed, the dates of travel, and the purpose of the travel.

10 ANSWER:
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14 INTERROGATORY NO. 7: Please list all of SOMS's fixed assets and their associated
15 depreciation indicating the date acquired, cost of asset, and deprecation life.

16 ANSWER:
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20 REQUEST FOR PRODUCTION 36: Please produce all documents concerning or showing the
21 base salary paid to you and/or your spouse by SOMS.

22 RESPONSE:
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26 REQUEST FOR PRODUCTION 37: Please produce all documents concerning all distributions

1 taken by you and/or your spouse from SOMS.

2 RESPONSE:

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6 REQUEST FOR PRODUCTION 38: Please produce all job improvement plans, work plans, or
7 performance plans for all SOMS's employees from January 1, 2003 through the date that SOMS
8 was sold.

9 RESPONSE:

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13 REQUEST FOR PRODUCTION NO. 39: Please produce the PRC Manual, all marketing
14 recommendations, suggestions, and critiques, referenced in Exhibit D to the Declaration of
15 Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

16 RESPONSE:

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20 REQUEST FOR PRODUCTION NO. 40: Please produce the Phase 1 Implementation Plan for
21 the Profitability Program, referenced in Exhibit D to the Declaration of Steven Teller, filed in
22 *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

23 RESPONSE:

1 REQUEST FOR PRODUCTION NO. 41: Please produce all documents concerning or showing
2 SOMS's employees' job descriptions.

3 RESPONSE:
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7 REQUEST FOR PRODUCTION NO. 42: Please produce the procedure manual referenced in
8 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
9 Case No. C06-5335-RJB).

10 RESPONSE:
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14 REQUEST FOR PRODUCTION NO. 43: Please produce the policy manual referenced in
15 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
16 Case No. C06-5335-RJB).

17 RESPONSE:
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21 REQUEST FOR PRODUCTION NO. 44: Please produce all procedural time studies referenced
22 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.
23 Wash. Case No. C06-5335-RJB).

24 RESPONSE:
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2 REQUEST FOR PRODUCTION NO. 45: Please produce the staff and gap analysis referenced
3 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.
4 Wash. Case No. C06-5335-RJB).

5 RESPONSE:
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9 REQUEST FOR PRODUCTION NO. 46: Please produce the all documents sent to SOMS's,
10 your, or your spouse's liability insurance carrier.

11 RESPONSE:
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15 REQUEST FOR PRODUCTION NO. 47: Please produce all documents produced by SOMS,
16 you, or your spouse to SOMS and/or Dr. Erickson's malpractice insurance carrier.

17 RESPONSE:
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21 REQUEST FOR PRODUCTION 48: Please produce records concerning the treatment of all
22 patients seen by your spouse and/or SOMS from January 1, 2005 through the date that SOMS
23 was sold. You may redact names and identifying information from the records.

24 RESPONSE:
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2 REQUEST FOR PRODUCTION NO. 49: Produce all documents concerning the "financial
3 difficulty" mentioned by Dr. Nussbaum in her progress note dates December 17, 2009.

4 RESPONSE:
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8 REQUEST FOR PRODUCTION 50: Please produce the OMS Policy Manual referenced in
9 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
10 Case No. C06-5335-RJB).

11 RESPONSE:
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14

15 DATED this 19th day of March, 2010.
16

17 OGDEN MURPHY WALLACE, PLLC
18

19 DECLARATION OF SERVICE

19 I hereby declare that I sent a copy of the document on
20 which this declaration appears via fax/mail/messenger By Emily Gant
20 service to McLean
21 I declare under penalty of perjury of the laws of the
21 State of Washington that the foregoing is true and correct.
21 Executed at Seattle, WA on 3/19/10
22 Signed by: Lee Corkrum

Lee Corkrum, WSBA No. 6585
Emily Gant, WSBA No. 35679
1601 Fifth Avenue, Suite 2100
Seattle, Washington 98101
Tel.: (206) 447-7000
Fax: (206) 447-0215
egant@omwlaw.com
Attorneys for Defendant

1 RESPONSES DATED this ____ day of April, 2010.

2 HAGENS BERMAN SOBOL SHAPIRO, LLP

3
4 By

Anthony D. Shapiro, WSBA #12824
David P. Moody, WSBA #22853
Martin D. McLean, WSBA #33269
1918 – 8th Avenue, Suite 3300
Seattle, WA 98101
Ph.: (206) 623-7292
Fax: (206) 624-0450
Attorneys for Plaintiffs

5
6
7
8
9
10 VERIFICATION

11 STATE OF _____)
12 COUNTY OF _____) ss.

13 I, _____, certify under penalty of perjury under the laws of the
14 State of _____ that the foregoing answers and responses are true and correct.

15 DATED this ____ day of April, 2010.

16 _____
17
18 SUBSCRIBED AND SWORN TO before me this ____ day of _____, 2010.

19
20 _____
21 NOTARY PUBLIC in and for the State of _____, residing at _____.

22 My commission expires: _____.
23
24
25
26

Exhibit 2

HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD and ANNE ERICKSON, individually and
the marital community comprised thereof,

Plaintiffs,

v.

MICROAIRE SURGICAL INSTRUMENTS,
LLC, a Virginia Limited Liability Company doing
business in the State of Washington,

Defendant.

NO. C08-5745-FDB

DEFENDANT'S SECOND SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO PLAINTIFF TODD
ERICKSON

To: TODD ERICKSON

And To: Tony Shapiro and Martin McLean, his attorney of record

In accordance with Federal Rules of Civil Procedure 26, 33 and 34, you will please answer the following interrogatories and produce for inspection and copying by defendant, the following designated documents and things in the offices of the attorneys for Ogden Murphy Wallace, 1601 Fifth Avenue, Suite 2100, Seattle, Washington 98101-1686, within thirty (30) days of the date these interrogatories and requests for production are served upon you.

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DEFENDANT'S SECOND SET OF DISCOVERY TO TODD
ERICKSON - 1

OGDEN MURPHY WALLACE, P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, Washington 98101-1686
Tel: 206.447.7000/Fax: 206.447.0215

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11 summaries, in whole or in part, in Your possession, custody, or control. A writing includes but is
12 not limited to letters, words, numbers, data compilations (including field data or field notes),
13 calculations, pictures, drawings, photographs, symbols, sounds, or combinations thereof or their
14 equivalent, including any and all handwritten, typewritten, printed, photocopied, or recorded
15 matter, regardless of the media used, and specifically any and all correspondence, e-mails,
16 Electronic Media, Electronically Stored Information, transcripts of testimonies, letters,
17 memoranda, notes, reports, papers, files, books, records, contracts, agreements, telegrams,
18 teletypes and other communications sent or received, diaries, calendars, telephone logs, drafts,
19 work papers, agenda, bulletins, notices, announcements, instructions, charts, maps, plans,
20 photographs, microfilm, data processed or image processed document, information stored or
21 maintained electronically or by sound-recording or in a similar device, manuals, brochures,
22 schedules, summaries, notes, minutes and other records and recordings of any conferences,
23 meetings, visits, statements, interviews, or telephone conversations, bills, statements, and other
24
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1 records of obligations and expenditures, cancelled checks, vouchers, receipts, and other records
2 of payments, financial data, analysis, statements, interviews, affidavits, printed matter (including
3 books, articles, speeches, newspaper clippings), press releases, file memoranda or other internal
4 documents, and photographs, and all drafts and/or non-identical copies thereof.

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16 written, magnetic, digital, analog, electronic, and oral voice or data communications, transfers,
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18 contained in conversations, conferences, meetings, seminars, presentations, correspondence,
19 documents, brochures, pamphlets, records, facsimiles, telecopies, voice mail, electronic mail,
20 Electronic Media, computer, cellular or digital media, photo-optic or analog media, magnetic
21 media, telex transmissions and/or communications conveyed by an electronic device.

22
23 “Concerning” or “Concerns” includes, but is not limited to, the following meanings:
24 relating to, referring to, pertaining to, regarding, constituting, discussing, mentioning, containing,
25 reflecting, evidencing, referencing, involving, arising out of, in connection with, describing,
26

1 displaying, showing, and identifying.

2 "Health Care Providers" shall refer to any doctors, nurses, psychiatrists, psychologists,
3 counselors, osteopaths, chiropractors, mental health professionals, and any other person provided
4 medical treatment or advice.

5 "Identify" or "Identity" when used in reference to an individual person means to state his
6 full name and present address, his present or last-known position and business affiliation, and his
7 position and affiliation at the time in question. "Identify" or "identity," when used in reference to
8 a document, means to state the date and author, type of document (e.g., letter, memorandum,
9 telegram, chart, etc.) or some other means of identifying it, and its present location or custodian.
10 If any such document was in your possession, but is no longer in your possession or subject to
11 your control, explain the disposition of the document.
12

13 "SOMS" means Sound Oral & Maxillofacial Surgery, P.S. and all derivations and
14 abbreviations of Sound Oral & Maxillofacial Surgery, including but not limited to, "Sound Oral,"
15 "Dr. Robert Todd Erickson, DDS," "Sound Oral Surgery," "SOMS," "Dr. Robert Erickson,"
16 "SOMS Inc., P.S." and "Sound Oral Maxillofacial."
17

18 "You" or "Your" shall mean Plaintiffs Todd and Anne Erickson, and SOMS, and each
19 predecessor, successor, Affiliate, director, owner, member, manager, officer, attorney, agent,
20 employee or representative of SOMS, and any other Person acting on SOMS' behalf or under its
21 control.
22

23 NOTE: The information sought in these interrogatories and requests for production is
24 intended to include any and all information and witnesses known to plaintiff, his agents or
25 attorneys.
26

1 REQUEST FOR PRODUCTION NO. 1: Please produce all documents showing or concerning
2 any and all marketing plans, business plans, production quotas, and/or production goals, for
3 SOMS from January 1, 1997 through the date that SOMS was sold.

4 RESPONSE:
5
6
7

8 REQUEST FOR PRODUCTION NO. 2: Please produce all documents concerning any and all
9 evaluations, reviews, or performance appraisals of any SOMS employees, from January 1, 1997
10 through the date that SOMS was sold.

11 RESPONSE:
12
13
14

15 REQUEST FOR PRODUCTION NO. 3: Please produce all documents concerning any
16 collections made by SOMS, and production numbers, from January 1, 1997 through the date that
17 SOMS was sold.

18 RESPONSE:
19
20
21

22 REQUEST FOR PRODUCTION NO. 4: Please produce all documents showing the number of
23 hours per day patients were seen at SOMS, including but not limited to any schedules, diaries,
24 and/or calendars, from January 1, 1997 through the date that SOMS was sold.

25 RESPONSE:
26

1
2
3 REQUEST FOR PRODUCTION NO. 5: Please produce all employee resumes and records
4 showing the dates of employment for each employee, from January 1, 1997 through the date that
5 SOMS was sold.

6
7 RESPONSE:

8
9
10 REQUEST FOR PRODUCTION NO. 6: Please produce any documents containing any lists of
11 all employees of SOMS from January 1, 1997 through the date that SOMS was sold.

12
13 RESPONSE:

14
15
16 INTERROGATORY NO. 1: Are you making a claim for loss of consortium? If so, please state
17 the total amount you are claiming, the method by which this amount was computed or
18 determined, and a full description of the basis for your claim.

19
20 ANSWER:

21
22
23 REQUEST FOR PRODUCTION NO. 7: Please produce copies of all records concerning or
24 supporting your answer to the preceding interrogatory.

25
26 RESPONSE:

1
2
3 REQUEST FOR PRODUCTION NO. 8: Produce all drills used in your oral surgical practice in
4 your possession, custody, or control. This includes, but is not limited to, the eleven (11)
5 pneumatic drills referenced in your deposition.
6

7 RESPONSE:
8
9

10 REQUEST FOR PRODUCTION NO. 9: Produce all documents concerning the Levin Group,
11 Inc., or Barry Levin, including but not limited to all files, contracts, meeting plans, notes,
12 recommendations, analyses, suggestions, critiques, and documents referencing Jennifer Flint,
13 Jennifer Alexander, and Mark Cardwell.
14

15 RESPONSE:
16
17

18 REQUEST FOR PRODUCTION NO. 10: Produce all documents concerning the lawsuit
19 captioned *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).
20

21 RESPONSE:
22
23

24 REQUEST FOR PRODUCTION NO. 11: Produce all pleadings, deposition transcripts with
25 exhibits, audio and/or videotapes of depositions, witness statements, expert reports,
26

1 correspondence, and settlement agreements concerning the case captioned *Forshey v. SOMS, Inc.*
2 *et. al.* (W.D. Wash. Case No. C06-5335-RJB). This request specifically excludes any materials
3 subject to the attorney-client privilege and/or work product doctrine.

4 RESPONSE:

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6
7
8 REQUEST FOR PRODUCTION NO. 12: Produce all employment contracts regarding Jennifer
9 Forshey.

10 RESPONSE:

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12
13
14 REQUEST FOR PRODUCTION NO. 13: Produce the notebook referenced on page 142 of Dr.
15 Erickson's deposition.

16 RESPONSE:

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18
19
20 REQUEST FOR PRODUCTION NO. 14: Produce all documents relevant to your interactions
21 with the Dental Quality Assurance Commission, including, but not limited to, complaints,
22 charges, responses, stipulations, correspondence, or any other filings.

23 RESPONSE:

1 REQUEST FOR PRODUCTION NO. 15: Produce all documents concerning any disability
2 insurance in your or your spouse's name, including but not limited to the application, policy,
3 claims, and correspondence.

4 RESPONSE:
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6
7

8 REQUEST FOR PRODUCTION NO. 16: Produce all documents concerning any and all golf
9 academies, institutions, and/or schools in which your son is/was enrolled, including but not
10 limited to all correspondence, brochures, registrations, bills, receipts, cancelled checks, and
11 programs.

12 RESPONSE:
13
14
15

16 INTERROGATORY NO. 2: Identify all accountants and/or any other financial professionals
17 hired and/or used by you, your spouse, or SOMS from January 1, 1997 through the present.

18 ANSWER:
19
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21

22 REQUEST FOR PRODUCTION NO. 17: Produce all credit card statements, investments, bank
23 statements, check registers, data from any accounting software, and cancelled checks, concerning
24 SOMS.

25 RESPONSE:
26

1
2
3 REQUEST FOR PRODUCTION NO. 18: Produce all credit card statements, investments, bank
4 statements, check registers, data from any accounting software, and cancelled checks, concerning
5 you and/or your spouse from January 1, 1997 through the present.
6

7 RESPONSE:
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9

10 REQUEST FOR PRODUCTION NO. 19: Produce all documents concerning you and your
11 spouse's liabilities, assets, and investments.
12

13 RESPONSE:
14
15

16 REQUEST FOR PRODUCTION NO. 20: Produce all billing records for SOMS.
17

18 RESPONSE:
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21 REQUEST FOR PRODUCTION NO. 21: Produce all documents concerning insurance for
22 SOMS, including but not limited to any policies, applications, endorsements, claims, and
23 correspondence.
24

25 RESPONSE:
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2 REQUEST FOR PRODUCTION NO. 22: Produce SOMS's document retention policy.

3
4 RESPONSE:

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7 REQUEST FOR PRODUCTION NO. 23: Produce all OSHA/WISHA manuals, records, training
8 materials, and brochures related to your/your spouse's practice at SOMS.

9
10 RESPONSE:

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13 REQUEST FOR PRODUCTION NO. 24: Produce all documents concerning Harris Biomedical.

14
15 RESPONSE:

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17
18 INTERROGATORY NO. 3: List every doctor or other health care provider from whom you
19 received treatment between 1987 and 1997, including the dates and nature of the treatment
20 received. This is meant to include, but is not limited to, not only all physicians, but also any
21 counselors, psychologists, therapists, mental health providers, addiction specialists, and/or drug
22 and alcohol rehabilitation workers or counselors.

23
24 ANSWER:

1 REQUEST FOR PRODUCTION NO. 25: Produce all documents concerning the preceding
2 interrogatory, including but not limited to all medical and billing records.

3 RESPONSE:
4
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6

7 REQUEST FOR PRODUCTION NO. 26: Produce all textbooks, journals, articles, surveys
8 concerning Oral & Maxillofacial surgery that you, your spouse, or SOMS received from 1985
9 through the present, including but not limited to, the Journal of Oral & Maxillofacial Surgery,
10 Journal of the American Dental Association, and Compendium.

11 RESPONSE:
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15 REQUEST FOR PRODUCTION NO. 27: Produce all documents concerning Don Dixon and/or
16 Dixon Orthopedics.

17 RESPONSE:
18
19

20 REQUEST FOR PRODUCTION NO. 28: Produce all documents concerning the pre-cordial
21 stethoscope(s) used during your practice, including, but not limited to, instruction manuals,
22 brochures, and invoices.

23 RESPONSE:
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1 REQUEST FOR PRODUCTION NO. 29: Produce all documents concerning the noise output
2 through the pre-cordial stethoscope during operation of the drills.

3 RESPONSE:
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7 REQUEST FOR PRODUCTION NO. 30: Produce all pre-cordial stethoscopes used in your
8 practice from 1997 through the date you sold SOMS.

9 RESPONSE:
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13 REQUEST FOR PRODUCTION NO. 31: Produce all documents concerning any consultations
14 with practice or business consultants, including but not limited to Dick Jackson.

15 RESPONSE:
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19 REQUEST FOR PRODUCTION NO. 32: Produce all documents concerning any lawsuits
20 against or brought by John Godulas.

21 RESPONSE:
22
23
24

25 REQUEST FOR PRODUCTION NO. 33: Produce all documents concerning any lawsuits
26 against or brought by Mark Paxton.

1 RESPONSE:

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5 REQUEST FOR PRODUCTION NO. 34: Produce all documents concerning dosimetry studies
6 prepared at the request of you, your spouse, or SOMS.

7 RESPONSE:

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11 INTERROGATORY NO. 4: Identify everywhere that you and/or your spouse have traveled by
12 airplane from January 1, 2000 to the present, including the location to which you traveled, the
13 name of the hotel or place where you stayed, the dates of travel, and the purpose of the travel.

14 ANSWER:

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17
18 INTERROGATORY NO. 5: Please list all of SOMS's fixed assets and their associated
19 depreciation indicating the date acquired, cost of asset, and depreciation life.

20 ANSWER:

21
22
23
24 INTERROGATORY NO. 6: Please list the name, address, and phone number all dentists that
25 referred more than 5 patients to SOMS and/or you from January 1, 1997 through the date that
26 SOMS was sold, including in your response the number of patients each dentist referred to you.

1 ANSWER:

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5 INTERROGATORY NO. 7: For each nurse, technician, or other professional, employed or hired
6 by SOMS or you, who was certified to monitor patients who were under general anesthesia,
7 please list their name, position, dates of employment, last known address, and telephone number.

8 ANSWER:

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11
12 INTERROGATORY NO. 8: Is it your position that no one other than Dr. Erickson was able to
13 adequately monitor patients under anesthesia within the standard of care? If so, please explain.

14 ANSWER:

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18 REQUEST FOR PRODUCTION 35: The Order on Completion of Conditions in the Matter of
19 Robert Erickson (no. M2006-5849), paragraph 2.4 states that "on May 10, 2009, the commission
20 received respondent's request to eliminate the requirement that he pay the fine required under
21 paragraph 4.1 of the 2007 Agreed Order. Respondent based his request on financial hardship and
22 submitted supporting documents." Produce all documents and evidence submitted in support of
23 your request.

24 RESPONSE:

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3 REQUEST FOR PRODUCTION 36: Please produce all documents concerning or showing the
4 base salary paid to you and/or your spouse by SOMS.
5

6 RESPONSE:
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9 REQUEST FOR PRODUCTION 37: Please produce all documents concerning all distributions
10 taken by you and/or your spouse from SOMS.
11

12 RESPONSE:
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15 REQUEST FOR PRODUCTION 38: Please produce all job improvement plans, work plans, or
16 performance plans for all SOMS's employees from January 1, 2003 through the date that SOMS
17 was sold.
18

19 RESPONSE:
20

21 INTERROGATORY NO. 9: Please list all bonuses paid by SOMS between January 1, 2003 and
22 the date that SOMS was sold, including but not limited to the name of the person receiving the
23 bonus, the position of the recipient, the date the bonus was disbursed, and the amount of the
24 bonus.
25

26 ANSWER:

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5 REQUEST FOR PRODUCTION NO. 39: Please produce the PRC Manual, all marketing
6 recommendations, suggestions, and critiques, referenced in Exhibit D to the Declaration of
7 Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

8 RESPONSE:
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12 REQUEST FOR PRODUCTION NO. 40: Please produce the Phase 1 Implementation Plan for
13 the Profitability Program, referenced in Exhibit D to the Declaration of Steven Teller, filed in
14 *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

15 RESPONSE:
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19 REQUEST FOR PRODUCTION NO. 41: Please produce all documents concerning or showing
20 SOMS's employees' job descriptions.

21 RESPONSE:
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25 REQUEST FOR PRODUCTION NO. 42: Please produce the procedure manual referenced in
26 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.

1 Case No. C06-5335-RJB).

2 RESPONSE:

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6 REQUEST FOR PRODUCTION NO. 43: Please produce the policy manual referenced in
7 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
8 Case No. C06-5335-RJB).

9 RESPONSE:

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13 REQUEST FOR PRODUCTION NO. 44: Please produce all procedural time studies referenced
14 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.
15 Wash. Case No. C06-5335-RJB).

16 RESPONSE:

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19 REQUEST FOR PRODUCTION NO. 45: Please produce the staff and gap analysis referenced
20 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.
21 Wash. Case No. C06-5335-RJB).

22 RESPONSE:

23
24 REQUEST FOR PRODUCTION NO. 46: Please produce all documents sent to SOMS's, your,
25 or your spouse's liability insurance carrier.
26

1 RESPONSE:

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5 REQUEST FOR PRODUCTION NO. 47: Please produce all documents produced by SOMS,
6 you, or your spouse to SOMS's and/or Dr. Erickson's malpractice insurance carrier.

7 RESPONSE:

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10 INTERROGATORY NO. 10: Estimate, on an average day, the cumulative time you were
11 exposed to noise by MicroAire drills.

12 ANSWER:

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15 REQUEST FOR PRODUCTION NO. 48: Produce all documents relevant to your answer to the
16 preceding interrogatory.

17 RESPONSE:

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20 INTERROGATORY NO. 11: Identify all steps taken by you and/or SOMS to protect the hearing
21 of your employees.

22 ANSWER:

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26 INTERROGATORY NO. 12: Please provide the name, last known address, and last known

{JDA775160.DOC;1\12459.000005\}

DEFENDANT'S SECOND SET OF DISCOVERY TO TODD
ERICKSON - 19

OGDEN MURPHY WALLACE, P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, Washington 98101-1686
Tel: 206.447.7000/Fax: 206.447.0215

1 phone number of all persons employed by SOMS from January 1, 2004 through the close of the
2 business.

3 ANSWER:
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7 INTERROGATORY NO. 13: Identify the person/people who handled the billing for SOMS
8 from January 1, 1997 through the close of the business.

9 ANSWER:
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14 REQUEST FOR PRODUCTION 49: Please produce records concerning the treatment of all
15 patients seen by you and/or SOMS from January 1, 2005 through the date that SOMS was sold.
16 You may redact names and identifying information from the records.

17 RESPONSE:
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21 REQUEST FOR PRODUCTION NO. 50: Produce all documents concerning any consultations,
22 appointments, or meetings you have had with any occupational therapist and/or career consultant.

23 RESPONSE:
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1 REQUEST FOR PRODUCTION NO. 51: Produce all documents concerning your fellowship at
2 the American Dental Association.

3 RESPONSE:
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7 REQUEST FOR PRODUCTION NO. 52: Produce all documents concerning the “financial
8 difficulty” mentioned by Dr. Nussbaum in her progress note dated December 17, 2009.

9 RESPONSE:
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13 REQUEST FOR PRODUCTION 53: Please produce the OMS Policy Manual referenced in
14 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
15 Case No. C06-5335-RJB).

16 RESPONSE:
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1 DATED this 19th day of March, 2010.

2 OGDEN MURPHY WALLACE, PLLC

3
4
5 By Emily Gant
6 Lee Corkrum, WSBA No. 6585
7 Emily Gant, WSBA No. 35679
8 1601 Fifth Avenue, Suite 2100
9 Seattle, Washington 98101
10 Tel.: (206) 447-7000
11 Fax: (206) 447-0215
12 egant@omwlaw.com
13 Attorneys for Defendant

14 DECLARATION OF SERVICE

15 I hereby declare that I sent a copy of the document on
16 which this declaration appears via fax/mail/messenger
17 service to McLean
18 I declare under penalty of perjury of the laws of the
19 State of Washington that the foregoing is true and correct.
20 Executed at Seattle, WA on 3/19/10
21 Signed by: Dave Miller

1 RESPONSES DATED this ____ day of April, 2010.

2 HAGENS BERMAN SOBOL SHAPIRO, LLP

3
4 By

Anthony D. Shapiro, WSBA #12824
David P. Moody, WSBA #22853
Martin D. McLean, WSBA #33269
1918 – 8th Avenue, Suite 3300
Seattle, WA 98101
Ph.: (206) 623-7292
Fax: (206) 624-0450
Attorneys for Plaintiffs

5
6
7
8
9
10 VERIFICATION

11 STATE OF _____)
12 COUNTY OF _____) ss.

13 I, _____, certify under penalty of perjury under the laws of the
14 State of _____ that the foregoing answers and responses are true and correct.

15 DATED this ____ day of April, 2010.

16 _____
17
18 SUBSCRIBED AND SWORD TO before me this ____ day of _____, 2010.

19
20 NOTARY PUBLIC in and for the State of
21 _____, residing at
22 _____.
23 My commission expires: _____.

Exhibit 3

HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD and ANNE ERICKSON, individually
and the marital community composed thereof,

Plaintiffs,

v.

MICROAIRE SURGICAL INSTRUMENTS
LLC, a Virginia limited liability company doing
business in the State of Washington,

Defendant.

No. C08-5745 FDB

DEFENDANT'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS AND
INTERROGATORIES TO PLAINTIFF
ANNE ERICKSON AND ANSWERS
AND RESPONSES THERETO

GENERAL OBJECTIONS

1. Plaintiff objects to any discovery request(s) seeking information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.
2. Plaintiff objects to any discovery request(s) seeking to impose burdens different or in excess of those mandated in the Civil Rules.
3. Plaintiff objects to any interrogatory or request for production seeking information or documents relating to a time period prior to 2004 unless otherwise indicated.
4. Plaintiff objects to the Interrogatories and Requests for Production of Documents on the grounds that they seek information that is not in plaintiff's possession, custody or control. In responding to these discovery requests, plaintiff has made a reasonable effort to attain the

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 1
Case No. C08-5745 FDB

 HAGENS BERMAN
1918 EIGHTH AVENUE, SUITE 3300 • SEATTLE, WA 98101
(206) 623-7292 • FAX (206) 623-0594

1 information sought, but has not attempted to procure information from sources outside her
2 possession, custody or control. Plaintiff's responses are based upon a reasonable search of the
3 information and documents available to her.

4 5. Plaintiff objects to Defendant's discovery on the grounds that it seeks information
5 that was prepared in anticipation of litigation, constitutes attorney work product, discloses mental
6 impressions, conclusions, opinions or legal theories of any attorney for or other representative of
7 plaintiffs, contains privileged attorney-client communications, or is otherwise protected from
8 disclosure under applicable privileges, laws or rules. Plaintiff claims such privileges and
9 protections implicated by Defendant's discovery and excluded privileged and protected material
10 from its responses. Any disclosure of such privileged or protected information is inadvertent and
11 is not intended to waive any privileges or protections.

12 6. Plaintiff objects to Defendant's discovery on the grounds that it is unduly
13 burdensome to the extent that the information sought is available in the public domain, has
14 already been disclosed by plaintiff, or is otherwise available to defendant or her counsel.

15 7. Plaintiff objects to Defendant's discovery on the grounds that it is vague and
16 ambiguous, or contain terms that are undefined or otherwise unclear.

17 8. Plaintiff objects to Defendant's discovery on the grounds that it assumes disputed
18 facts or legal conclusions. Plaintiff hereby denies any disputed facts or legal conclusions
19 assumed by each discovery request. Any response or objection, including any production of
20 documents by plaintiff with respect to any such Interrogatory is without prejudice to this
21 objection and plaintiff's right to dispute facts and legal conclusions assumed by the
22 Interrogatories.

23 9. In making these responses, plaintiff reserves and does not waive her right to
24 present or rely upon subsequently developed legal theories, additional facts, documents,
25 information or evidence later discovered or obtained, or inadvertently omitted at this time. In
26

1 addition, plaintiff reserves and does not waive her right to amend or supplement its responses in
2 the future.

3 10. The written responses to Defendant's discovery are made solely for the purposes
4 of this action. In providing these responses, plaintiff does not concede the relevancy or
5 materiality of any information provided. The responses are provided subject to and without
6 waiver of all questions or objections as to competency, materiality or admissibility as evidence.

7 11. Plaintiff expressly reserves all objections and privileges that may be applicable in
8 proceedings unrelated to this action. Each response contained herein is subject to all objections
9 as to confidentiality, relevance, materiality, propriety, admissibility, and all other objections and
10 grounds that would require the exclusion of any statement contained herein if these
11 Interrogatories were asked of, or any statements contained herein were made by, a witness
12 present and testifying in court, all of which objections and grounds are reserved and may be
13 interposed at the time of trial.

14 12. Except for explicit facts admitted herein, no incidental or implied admissions are
15 intended. The fact that plaintiff has responded to any discovery request is not to be taken as an
16 admission that she accepts or admits the existence of any fact set forth or assumed by such request
17 or that such response constitutes admissible evidence. Responses contained herein are not intended
18 and shall not be construed to be a waiver of all or part of any discovery request propounded to
19 plaintiff.

20 13. Plaintiff incorporates by reference the above objections into each of the responses
21 set forth below.

22 The information supplied herein is not based solely upon the knowledge of the executing
23 party, but includes the knowledge of the parties, their agents, representatives and attorneys, unless
24 privileged. The word usage and sentence structure may be that of the attorney(s) assisting in the
25 preparation of these answers and objections and, thus, does not necessarily purport to be the precise
26 language of the executing party.

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 3
Case No. C08-5745 FDB

 HAGENS BERMAN
1918 EIGHTH AVENUE, SUITE 3300 • SEATTLE, WA 98101
(206) 623-7292 • FAX (206) 623-0594

1 All documents responsive to defendant's requests for production will be produced at a
2 mutually convenient time at our offices.

3
4 REQUEST FOR PRODUCTION NO. 1: Please produce all documents showing or concerning
5 any and all marketing plans, business plans, production quotas, and/or production goals, for
6 SOMS from January 1, 1997 through the date that SOMS was sold.

7 RESPONSE:

8 Any responsive documents will be made available for inspection and copying at
9 plaintiff's counsel's office at a mutually convenient time.

10 REQUEST FOR PRODUCTION NO. 2: Please produce all documents concerning any and all
11 evaluations, reviews, or performance appraisals of any SOMS employees, from January 1, 1997
12 through the date that SOMS was sold.

13 RESPONSE:

14
15 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
16 proper discovery because the information it seeks is neither relevant nor reasonable calculated to
17 lead to the discovery of admissible evidence. Further, former employees have a protected
18 privacy right which this request seeks to violate.

19 REQUEST FOR PRODUCTION NO. 3: Please produce all documents concerning any
20 collections made by SOMS, and production numbers, from January 1, 1997 through the date that
21 SOMS was sold.

22 RESPONSE:

23 Any responsive documents will be made available for inspection and copying of
24 plaintiff's counsel's office at a mutually-convenient time.

1 REQUEST FOR PRODUCTION NO. 4: Please produce all documents showing the number of
2 hours per day patients were seen at SOMS, including but not limited to any schedules, diaries,
3 and/or calendars, from January 1, 1997 through the date that SOMS was sold.

4 RESPONSE:

5 All responsive documents will be made available for inspection and copying of plaintiff's
6 counsel's office at a mutually-convenient time.

7 REQUEST FOR PRODUCTION NO. 5: Please produce all employee resumes and records
8 showing the dates of employment for each employee, from January 1, 1997 through the date that
9 SOMS was sold.

10 RESPONSE:

11 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
12 proper discovery because the information it seeks is neither relevant nor reasonable calculated to
13 lead to the discovery of admissible evidence. Further, former employees have a protected
14 privacy right which this request seeks to violate.

15 REQUEST FOR PRODUCTION NO. 6: Please produce any documents containing any lists of
16 all employees of SOMS from January 1, 1997 through the date that SOMS was sold.

17 RESPONSE:

18 Any responsive documents will be made available for inspection and copying at
19 plaintiff's counsel's office at a mutually convenient time.

20 INTERROGATORY NO. 1: Are you making a claim for loss of consortium? If so, please state
21 the total amount you are claiming, the method by which this amount was computed or
22 determined, and a full description of the basis for your claim.

23 ANSWER:

24 Yes. The amount of such damages will be determined by an impartial jury.

25 DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
26 TO PLF. ANNE ERICKSON & ANSWERS THERETO- 5
Case No. C08-5745 FDB

 HAGENS BERMAN
1918 EIGHTH AVENUE, SUITE 3300 • SEATTLE, WA 98101
(206) 623-7292 • FAX (206) 623-0594

1 REQUEST FOR PRODUCTION NO. 7: Please produce copies of all records concerning or
2 supporting your answer to the preceding interrogatory.

3 RESPONSE:

4 Objection. Vague and unclear. Notwithstanding the foregoing please see medical
5 records of Dr. Erickson already provided. Furthermore, Anne Erickson will sign a stipulation for
6 production of her medical records from 2004 to the present which should contain responsive
7 information.

8
9 REQUEST FOR PRODUCTION NO. 8: Produce all drills used in your spouse's oral surgical
10 practice in your possession, custody, or control. This includes, but is not limited to, the eleven
11 (11) pneumatic drills referenced in Dr. Erickson's deposition.

12 RESPONSE:

13 Plaintiffs' drills will be made available for inspection and testing once an appropriate
14 protocol has been established either through agreement by the parties or by order of the Court.

15 REQUEST FOR PRODUCTION NO. 9: Produce all documents concerning the Levin Group,
16 Inc., or Barry Levin, including but not limited to all files, contracts, meeting plans, notes,
17 recommendations, analyses, suggestions, critiques, and documents referencing Jennifer Flint,
18 Jennifer Alexander, and Mark Cardwell.

19 RESPONSE:

20 Any responsive documents will be made available for inspection and copying at
21 plaintiff's counsel's office at a mutually convenient time.

22 REQUEST FOR PRODUCTION NO. 10: Produce all documents concerning the lawsuit
23 captioned *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).
24

25 RESPONSE:
26

1 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
 2 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
 3 lead to the discovery of admissible evidence. Further, much of the requested documentation is in
 4 the public record and equally available to defendant or has already been subpoenaed by
 5 defendant from Dr. Forshey.

6 REQUEST FOR PRODUCTION NO. 11: Produce all pleadings, deposition transcripts with
 7 exhibits, audio and/or videotapes of depositions, witness statements, expert reports,
 8 correspondence, and settlement agreements concerning the case captioned *Forshey v. SOMS, Inc.*
 9 *et. al.* (W.D. Wash. Case No. C06-5335-RJB). This request specifically excludes any materials
 10 subject to the attorney-client privilege and/or work product doctrine.

11 RESPONSE:

12 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
 13 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
 14 lead to the discovery of admissible evidence. Further, much of the requested documentation is in
 15 the public record and equally available to defendant or has already been subpoenaed by
 16 defendant from Dr. Forshey.

17 REQUEST FOR PRODUCTION NO. 12: Produce all employment contracts regarding Jennifer
 18 Forshey.

19 RESPONSE:

20 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
 21 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
 22 lead to the discovery of admissible evidence. Further, much of the requested documentation is in
 23 the public record and equally available to defendant or has already been subpoenaed by
 24 defendant from Dr. Forshey.
 25
 26

1 REQUEST FOR PRODUCTION NO. 13: Produce the notebook referenced on page 142 of Dr.
2 Erickson's deposition.

3 RESPONSE:

4 Any responsive documents will be made available for inspection and copying at
5 plaintiff's counsel's office at a mutually convenient time.

6 REQUEST FOR PRODUCTION NO. 14: Produce all documents relevant to your spouse's
7 interactions with the Dental Quality Assurance Commission, including, but not limited to,
8 complaints, charges, responses, stipulations, correspondence, or any other filings.

9 RESPONSE:

10
11 Objection. Overbroad and unduly burdensome. Not relevant and not reasonably
12 calculated to lead to the discovery of admissible evidence. Further, defendant has already
13 received the complete file from the Dental Quality Assurance Commission. Notwithstanding the
14 foregoing objections, any responsive document will be produced.

15 REQUEST FOR PRODUCTION NO. 15: Produce all documents concerning any disability
16 insurance in you or your spouse's name, including but not limited to the application, policy,
17 claims, and correspondence.

18 RESPONSE:

19 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
20 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
21 lead to the discovery of admissible evidence.

22 REQUEST FOR PRODUCTION NO. 16: Produce all documents concerning any and all golf
23 academies, institutions, and/or schools in which your son is/was enrolled, including but not
24 limited to all correspondence, brochures, registrations, bills, receipts, cancelled checks, and
25 programs.
26

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 8
Case No. C08-5745 FDB

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(206) 623-7292 • FAX (206) 623-0594

1 RESPONSE:

2 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
3 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
4 lead to the discovery of admissible evidence.

5 INTERROGATORY NO. 2: Identify all accountants and/or any other financial professionals
6 hired and/or used by you, your spouse, or SOMS from January 1, 1997 through the present.

7 ANSWER:

8 The accountant for Sound Oral Maxillofacial Surgery was:
9 Jason Kors, CPA, MS
10 Dwyer Pemberton & Coulson. P.C.
11 1940 East D Street, Suite 200
Tacoma, WA 98421

12 REQUEST FOR PRODUCTION NO. 17: Produce all credit card statements, investments, bank
13 statements, check registers, data from any accounting software, and cancelled checks, concerning
14 SOMS.

15 RESPONSE:

16 Any responsive documents will be made available for inspection and copying at
17 plaintiff's counsel's office at a mutually convenient time.

18 REQUEST FOR PRODUCTION NO. 18: Produce all credit card statements, investments, bank
19 statements, check registers, data from any accounting software, and cancelled checks, concerning
20 you and/or your spouse.

21 RESPONSE:

22 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
23 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
24 lead to the discovery of admissible evidence.
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1 In addition this request is improper because it is interposed for an improper purpose such
2 as to harass plaintiffs.

3 REQUEST FOR PRODUCTION NO. 19: Produce all documents concerning you and your
4 spouse's liabilities, assets, and investments.

5 RESPONSE:

6 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
7 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
8 lead to the discovery of admissible evidence.

9 In addition this request is improper because it is interposed for an improper purpose such
10 as to harass plaintiffs.

11 REQUEST FOR PRODUCTION NO. 20: Produce all billing records for SOMS.

12 RESPONSE:

13 Any responsive documents will be made available for inspection and copying at
14 plaintiff's counsel's office at a mutually convenient time.

15 REQUEST FOR PRODUCTION NO. 21: Produce all documents concerning insurance for
16 SOMS, including but not limited to any policies, applications, endorsements, claims, and
17 correspondence.

18 RESPONSE:

19 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
20 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
21 lead to the discovery of admissible evidence.

22 REQUEST FOR PRODUCTION NO. 22: Produce SOMS's document retention policy.

23 RESPONSE:

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DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 10
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1 There was no written document retention policy.

2 REQUEST FOR PRODUCTION NO. 23: Produce all OSHA/WISHA manuals, records,
3 training materials, and brochures your/your spouse's practice at SOMS.

4 RESPONSE:

5 Any responsive documents will be made available for inspection and copying at
6 plaintiff's counsel's office at a mutually convenient time.

7 REQUEST FOR PRODUCTION NO. 24: Produce all documents concerning Harris
8 Biomedical.

9 RESPONSE:

10 Any responsive documents will be made available for inspection and copying at
11 plaintiff's counsel's office at a mutually convenient time. Furthermore, defendant has received
12 documents from Harris Biomedical in response to a subpoena.

13 INTERROGATORY NO. 3: Please list each school or educational institution that you have
14 attended, including the dates of attendance, date of graduation, degree obtained, and major or
15 course of study.

16 ANSWER:

17 Washington State University BSN 1980 – 1984

18 Gonzaga University MBA Graduated in 1993

19 INTERROGATORY NO. 4: List the names and addresses of all health care providers, including
20 but not limited to all doctors, nurses, psychiatrists, psychologists, counselors, osteopaths,
21 chiropractors, mental health professionals, and any other person who provided health care to you
22 or your spouse since your hearing loss first began.

23 DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
24 TO PLF. ANNE ERICKSON & ANSWERS THERETO- 11
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1 ANSWER: Objection. This interrogatory is vague and unclear since Anne Erickson
2 has not experienced any hearing loss. However, Ms. Erickson has treated with the following
3 healthcare professional since early 2006:

4 Dr. Timothy Holmes, DC, RT
5 11511 Canterwood Blvd., #210
6 Gig Harbor, WA 98332

7 Barbara Levy, MD
8 34503 9th Avenue S, #330
9 Federal Way, WA 98003

10 Mark Taylor, MD
11 Pacific NW Eye Associates
12 2202 S. Cedar Street, #100
13 Tacoma, WA 98405

14 Michael Flatley, DDS
15 4423 Pt. Fosdick Drive, #304
16 Gig Harbor, WA 98335

17 Sally Chumney, FNP
18 Minute Clinic
19 6895 E. Sunrise
20 Tucson, AZ 85750

21 Joan Halley, DO
22 Peninsula Family Medicine
23 4700 Pt. Fosdick Drive, #220
24 Gig Harbor, WA 98335

25 Marcello Cherchi, MD, PhD
26 645 N. Michigan, #410
 Chicago, Illinois 60611

 David Pratt, MD
 2202 S. Cedar, #300
 Tacoma, WA 98405

 John Carrougner, MD
 4700 Pt. Fosdick, #308
 Gig Harbor, WA 98335

1 REQUEST FOR PRODUCTION NO. 25: Produce all documents concerning the preceding
2 interrogatory, including but not limited to all medical and billing records.

3 RESPONSE: The requested documents are not in plaintiff's possession, custody or
4 control.

5 INTERROGATORY NO. 5: Please list the names and addresses of all mental health care
6 providers, including but not limited to psychologists, psychiatrists, counselors, social workers,
7 and therapists, that you and/or your spouse saw prior to your spouse's hearing loss beginning.

8 ANSWER: Objection. Overbroad, burdensome and oppressive. From 2000 until Dr.
9 Erickson was diagnosed with hearing loss and other conditions, Ms. Erickson saw none of the
10 above listed healthcare providers. With respect to Dr. Erickson the requested information has
11 already been provided.

12 REQUEST FOR PRODUCTION NO. 26: Produce all documents concerning the preceding
13 interrogatory, including but not limited to all records and billing records.

14 RESPONSE:

15 N/A

16 REQUEST FOR PRODUCTION NO. 27: Produce all textbooks, journals, articles, and surveys
17 concerning Oral & Maxillofacial surgery that you, your spouse, or SOMS received from 1985
18 through the present, including but not limited to, the Journal of Oral & Maxillofacial Surgery,
19 Journal of the American Dental Association, and Compendium.

20 RESPONSE:

21 Objection. Overbroad, unduly burdensome and harassing.

22 REQUEST FOR PRODUCTION NO. 28: Produce all documents concerning Don Dixon and/or
23 Dixon Orthopedics.

1 RESPONSE:

2 Any responsive documents will be made available for inspection and copying at
3 plaintiff's counsel's office at a mutually convenient time.

4 REQUEST FOR PRODUCTION NO. 29: Produce all documents concerning the pre-cordial
5 stethoscope(s) used during your spouse's practice, including, but not limited to, instruction
6 manuals, brochures, and invoices.

7 RESPONSE:

8 Any responsive documents will be made available for inspection and copying at
9 plaintiff's counsel's office at a mutually convenient time.

10 REQUEST FOR PRODUCTION NO. 30: Produce all pre-cordial stethoscopes used in your
11 spouse's practice from 1997 through the date you sold SOMS.

12 RESPONSE:

13 Any pre-cordial stethoscopes in plaintiffs' possession, custody or control will be made
14 available for inspection and testing once an appropriate protocol has been established either
15 through agreement by the parties or by order of the Court.

16 REQUEST FOR PRODUCTION NO. 31: Produce all documents concerning the noise output
17 through the pre-cordial stethoscope during operation of the drills.

18 RESPONSE:

19 Plaintiff does not believe that any responsive documents exist.

20 REQUEST FOR PRODUCTION NO. 32: Produce all documents concerning any consultations
21 with practice or business consultants, including but not limited to Dick Jackson.

22 RESPONSE:

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DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
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Any responsive documents will be made available for inspection and copying at plaintiff's counsel's office at a mutually convenient time.

REQUEST FOR PRODUCTION NO. 33: Produce all documents concerning any lawsuits against or brought by John Godulas.

RESPONSE:

Objection. Overbroad and unduly burdensome. This request is beyond the scope of proper discovery because the information it seeks is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Furthermore, no responsive documents are believed to exist.

REQUEST FOR PRODUCTION NO. 34: Produce all documents concerning any lawsuits against or brought by Mark Paxton

RESPONSE:

Objection. Overbroad and unduly burdensome. This request is beyond the scope of proper discovery because the information it seeks is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Furthermore, no responsive documents are believed to exist.

REQUEST FOR PRODUCTION NO. 35: Produce all documents concerning dosimetry studies prepared at the request of you, your spouse, or SOMS.

RESPONSE:

No responsive documents are believed to exist.

INTERROGATORY NO. 6: Identify everywhere that you and/or your spouse have traveled by airplane from January 1, 2000 to the present, including the location to which you traveled, the name of the hotel or place where you stayed, the dates of travel, and the purpose of the travel.

1 ANSWER:

2 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
3 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
4 lead to the discovery of admissible evidence.

5 In addition this request is improper because it is interposed for an improper purpose such
6 as to harass plaintiffs.

7 INTERROGATORY NO. 7: Please list all of SOMS's fixed assets and their associated
8 depreciation indicating the date acquired, cost of asset, and deprecation life.

9 ANSWER:

10 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
11 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
12 lead to the discovery of admissible evidence. Further, please see tax returns already produced or
13 requested from the IRS.

14 REQUEST FOR PRODUCTION 36: Please produce all documents concerning or showing the
15 base salary paid to you and/or your spouse by SOMS.

16 RESPONSE:

17 Any responsive documents will be made available for inspection and copying at
18 plaintiff's counsel's office at a mutually convenient time.

19 REQUEST FOR PRODUCTION 37: Please produce all documents concerning all distributions
20 taken by you and/or your spouse from SOMS.

21 RESPONSE:

22 Any responsive documents will be made available for inspection and copying at
23 plaintiff's counsel's office at a mutually convenient time.

1 REQUEST FOR PRODUCTION 38: Please produce all job improvement plans, work plans, or
2 performance plans for all SOMS's employees from January 1, 2003 through the date that SOMS
3 was sold.

4 RESPONSE:

5 No responsive documents are believed to exist.

6 REQUEST FOR PRODUCTION NO. 39: Please produce the PRC Manual, all marketing
7 recommendations, suggestions, and critiques, referenced in Exhibit D to the Declaration of
8 Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

9 RESPONSE:

10 To the extent any such documents exist they will be produced.

11 REQUEST FOR PRODUCTION NO. 40: Please produce the Phase 1 Implementation Plan for
12 the Profitability Program, referenced in Exhibit D to the Declaration of Steven Teller, filed in
13 *Forshey v. SOMS, Inc. et. al.* (W.D. Wash. Case No. C06-5335-RJB).

14 RESPONSE:

15 To the extent any such documents exist they will be produced.

16 REQUEST FOR PRODUCTION NO. 41: Please produce all documents concerning or showing
17 SOMS's employees' job descriptions.

18 RESPONSE:

19 To the extent any such documents exist they will be produced.

20 REQUEST FOR PRODUCTION NO. 42: Please produce the procedure manual referenced in
21 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
22 Case No. C06-5335-RJB).

1 RESPONSE:

2 To the extent any such documents exist they will be produced.

3 REQUEST FOR PRODUCTION NO. 43: Please produce the policy manual referenced in
4 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
5 Case No. C06-5335-RJB).

6 RESPONSE:

7 To the extent any such documents exist they will be produced.

8 REQUEST FOR PRODUCTION NO. 44: Please produce all procedural time studies referenced
9 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.
10 Wash. Case No. C06-5335-RJB).

11 RESPONSE:

12 To the extent any such documents exist they will be produced.

13 REQUEST FOR PRODUCTION NO. 45: Please produce the staff and gap analysis referenced
14 in Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D.
15 Wash. Case No. C06-5335-RJB).

16 RESPONSE:

17 To the extent any such documents exist they will be produced.

18 REQUEST FOR PRODUCTION NO. 46: Please produce the all documents sent to SOMS's,
19 your, or your spouse's liability insurance carrier.

20 RESPONSE:

21 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
22 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
23 lead to the discovery of admissible evidence.
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1 REQUEST FOR PRODUCTION NO. 47: Please produce all documents produced by SOMS,
2 you, or your spouse to SOMS and/or Dr. Erickson's malpractice insurance carrier.

3 RESPONSE:

4 Objection. Overbroad and unduly burdensome. This request is beyond the scope of
5 proper discovery because the information it seeks is neither relevant nor reasonably calculated to
6 lead to the discovery of admissible evidence.

7 REQUEST FOR PRODUCTION 48: Please produce records concerning the treatment of all
8 patients seen by your spouse and/or SOMS from January 1, 2005 through the date that SOMS
9 was sold. You may redact names and identifying information from the records.

10 RESPONSE:

11 No responsive records are in plaintiffs' possession, custody or control.

12 REQUEST FOR PRODUCTION NO. 49: Produce all documents concerning the "financial
13 difficulty" mentioned by Dr. Nussbaum in her progress note dates December 17, 2009.

14 RESPONSE:

15 Objection. Vague. Plaintiffs have no way of knowing what records Dr. Nussbaum may
16 believe supports her notation of "financial difficulty."

17 REQUEST FOR PRODUCTION 50: Please produce the OMS Policy Manual referenced in
18 Exhibit D to the Declaration of Steven Teller, filed in *Forshey v. SOMS, Inc. et. al.* (W.D. Wash.
19 Case No. C06-5335-RJB).

20 RESPONSE:

21 To the extent responsive documents exist they will be produced.


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23 \\\n

1 ANSWERS DATED this 19th day of April, 2010.

2 HAGENS BERMAN SOBOL SHAPIRO LLP

3
4
5 By


Anthony D. Shapiro, WSBA No. 12824
David P. Moody, WSBA No. 22853
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10 Attorneys for Plaintiffs

VERIFICATION


STATE OF WASHINGTON)
COUNTY OF PIERCE) ss.

I, Anne Erickson, certify under penalty of perjury under the laws of the State of Washington that the foregoing answers and responses are true and correct.

DATED this 12th day of April, 2010.


ANNE ERICKSON

SUBSCRIBED AND SWORN TO before me this 12th day of April, 2010.


NOTARY PUBLIC in and for the State of
Washington, residing at Seattle.

My commission expires: 5-10-2012.

DEF.'S 1ST SET OF RFP OF DOCS. & INTERROG.
TO PLF. ANNE ERICKSON & ANSWERS THERETO- 21
Case No. C08-5745 FDB


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CERTIFICATE OF SERVICE

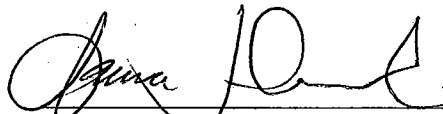
The undersigned hereby certifies that she is an employee in the law offices of Hagens Berman Sobol Shapiro LLP, and is a person of such age and discretion as to be competent to serve papers.

I hereby certify that on April 19, 2010, I served via messenger Defendant's First Set of Requests for Production of Documents & Interrogatories to Plaintiff Anne Erickson on the following:

Ms. Emily Harris Gant
OGDEN MURPHY WALLACE P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, Washington 98101-1686

Attorneys for Defendant MicroAire Surgical Instruments LLC

DATED this 19th day of April, 2010.



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